

Chairman Oberstar & Ranking Member Mica's House Transportation  
Reauthorization bill—The Surface Transportation Authorization Act of 2009:

## **Preliminary Highlights and Potential Implications for Lee County**

**By DARLA LETOURNEAU / June 23, 2009**

On June 18<sup>th</sup>, Chairman Oberstar and Ranking Member Mica of the House Transportation and Infrastructure Committee released their bipartisan reauthorization bill blueprint, providing the first glimpse of what the next transportation authorization bill might look like. The actual bill was made available late Monday, June 22<sup>nd</sup>, with subcommittee mark-up scheduled for June 24<sup>th</sup>. Full committee mark-up may occur in late July.

These preliminary comments are focused on aspects of the bill that are most likely to be relevant to Lee County; therefore, it is not a comprehensive analysis of the entire bill. Given the size of the bill (775 pages) just released last night, these comments are based on a quick review of certain sections of the bill, and may need further updates and revisions. [Note: the bill has not yet been officially introduced; therefore, it cannot be found on THOMAS. To view the bill and the blueprint summary, go to <http://transportation.house.gov>.]

### **Overview**

The Oberstar blueprint underscore the growing consensus on the need for a serious overhaul of our federal transportation program. It calls for many forward thinking recommendations for building a safe, clean, and smart transportation system.

According to the Blueprint for Investment and Reform released on Thursday, the bill “will transform Federal surface transportation from an amalgamation of prescriptive programs to a performance-based framework for intermodal transportation investment.

The Blueprint is designed to achieve specific national objectives:

- reduce fatalities and injuries on our nation's highways;
- unlock the congestion that cripples major cities and freight transportation network;
- provide transportation choices for commuters and travelers;
- limit the adverse effects on transportation on the environment; and
- promote public health and the livability of our communities.”

Among the major themes in the bill are an emphasis on transit and livability, and an increase in the power of local MPOs.

### **Highlights:**

It should be noted that the bill contains no dollar amounts of authorizations for programs, and contains no way to pay for the spending amounts that will be inserted in the bill later. The taxes flowing into the Highway Trust Fund under current law will only support a bill that is about half this size, according to [Transportation Weekly](#).

### **Performance-Based Framework**

Over the years, the federal surface transportation program has presented essentially a “blank check” to the states, with guaranteed funding despite past performance outcomes. This legislation moves from this past approach to a performance-based framework.

Under the Oberstar proposal there are national performance objectives and measures, and for many new and existing programs, the bill requires DOT to set performance measures and targets. States and localities must then establish performance measures and targets that support these national performance objectives and targets.

### **Lee County Implications**

A performance-based system should provide some important tools for requiring local transportation efforts to provide equitable access to transportation, ensure the safety of all users, and reduce our carbon footprint, among other goals. For example, in order for Lee County to meet a greenhouse gas reduction target that will be set by the MPO consistent with the national target, the county will need to develop and implement a strategy to greater increase the share of alternative modes of transportation.

See the sections below on greenhouse gas emissions, safety, and mobility for further discussion of Lee County statistics pointing to the need for performance targets and improvement strategies.

### **Complete Streets**

To ensure that roadways are built with the needs of all users in mind, complete streets gets prominent placement in the proposal. It calls for “comprehensive street design policies and principles,” and makes clear that this is defined as complete streets:

“To ensure that roadways are built with the needs of all users in mind, the Surface Transportation Authorization Act requires that states and metropolitan regions consider comprehensive street design principles. Comprehensive street design takes into account the needs of all users, including motorists, motorcyclists, transit riders, cyclists, pedestrians, the elderly, and individuals with disabilities. Comprehensive street design principles are not prescriptive, do not mandate any particular design element, and result in greatly varied facilities depending on the specific needs of the community in which they are located.”

The development of a new National Transportation Strategic Plan will address the haphazard development of inefficient systems that poorly serve the traveling public and slow commerce. As part of this process, states will be required to ensure interconnectivity by including all applicable transportation modes in the early stage of project development, which is one of the complete street principles.

Lee County implications:

The national complete streets campaign has been underway for several years, and this proposal incorporates it into national legislation. As a result of the successful national campaign for complete streets, there are currently 95 places (state, county, and city) with policies in place.

Lee County is one of the many communities around the country currently working on the adoption of a complete streets policy. On June 17<sup>th</sup>, the Lee County Smart Growth Committee, chartered by the Board of County Commissioners, adopted a comprehensive Complete Streets Resolution which they transmitted to the County Commissioners for action, scheduled for August 4<sup>th</sup>. Adoption of this resolution by the BoCC and implementation by the County government during 2009-2010 will put the county in a leadership position, giving us a head start on implementing the many transformative features of the reauthorization legislation.

The Lee County MPO has been considering a resolution requiring accommodations for bike/ped/transit facilities in the design of road projects. This resolution will be considered by the MPO at its August 24<sup>th</sup> meeting. Again, this policy is one aspect of complete streets design and positions all the jurisdictions in Lee County for the complete streets policy direction coming from the national legislation.

Moving these resolutions forward may put Lee County in a more immediate position to meet federal requirements and compete for grant funds.

**Office of Livability and Link with Complete Streets**

In a major break from the past, the bill sets goals for transportation in terms of improving the livability and environmental sustainability of communities. The blueprint states that, "Providing transportation choices and creating livable communities is essential to improving mobility for all users and ensuring that the transportation system enhances our quality of life. Expanding access to sustainable modes of transportation, and incorporating long-term mobility needs into the community planning process will yield significant benefits for public health and the environment."

The Blueprint presents the case for modal choice: "The most recent data for non-motorized transportation, compiled by DOT in 2001, demonstrate that walking and biking account for 10 percent of all trips taken. Collectively, transit, walking, and cycling result in 5.6 billion gallons of fuel saved each year and reduced carbon dioxide emissions by 49 million metric tons. " The bill further states that "sustainable modes of

transportation can provide affordable transportation choices and have the ability to reduce the transportation cost burden.”

To provide federal leadership for sustainable transportation, the bill establishes an Office of Livability (in the FHWA) which will be the focal point within the Department to advance environmentally sustainable modes of transportation, including transit, walking, and bicycling. This Office will encourage integrated planning, linking land use and transportation planning, to support the creation of livable communities.

This office will administer the following existing programs:

- Safe Routes to Schools
- Transportation Enhancements
- Recreational Trails
- Scenic Byways
- The U.S. Bicycle Route System (new)

The office will encourage and support the adoption of comprehensive streets policies and principles (i.e., complete streets) through the following:

- Overseeing the implementation of the new requirements that all Federal-aid projects (under title 23) consider comprehensive street design policies and principles and practical design standards
- Establishing best practices, model legislation, and technical assistance to support state, regions, and localities in adopting and implementing comprehensive street design policies.

The office will also compile and disseminate best practices and provide technical assistance related to:

- The delivery of non-motorized transportation projects
- The development of livable communities and the integration of land use and transportation policies;
- Transit-oriented development
- Comprehensive street design policies and principles and practical design standards;
- Implement of the U.S. Bicycle Route System (new)—“a national, inter-city system of interconnected urban, suburban, and rural bicycle facilities of all classes”

The bill language places emphasis of the rights of cyclists and pedestrians:

- “cyclists and pedestrians are intended users of the surface transportation system, except where prohibited by law”
- “It is the policy of the Federal Government to encourage maximum accessibility and safety of the surface transportation system for cyclists and pedestrians as intended users when designing and constructing surface transportation facilities.”

In addition to these policy statements, the bill mandates that a study be conducted of the rights of cyclists and pedestrians followed by the issuance of guidance and model legislation for states within 18 months of enactment. The guidance will establish the rights of bicyclists and pedestrians to use transportation facilities as permitted and intended users; and ensure that both have the same ability as motorists and their passengers to recover damages for injuries sustained on transportation facilities.

The bill language requires the Office to develop quantifiable national mode share targets for sustainable modes of transportation, and develop a timeline for achievement of these targets.

The bill also improves data and research, requiring the development and analysis of statistics on the following measures of sustainable modes of transportation:

- the percentage of trips taken nationally each year for each mode (car, transit, walking, biking)
- the economic, public health, and environmental benefits derived due to the percentage of trips taken by these sustainable modes of transportation
- potential future benefits that could be achieved with an increase in the percentage of trips taken annually by these modes.

#### Lee County Implications

This Office will change the paradigm of planning, designing, and funding road projects to include complete street designs.

In addition to elevating and coordinating all the programs that help make our communities more livable, the office can provide important guidance and tools for assisting our local efforts on complete streets, smart growth, and transit-oriented development. Previously, USDOT provided no leadership or assistance in these areas.

The bill's strong policy statement about bicyclists and pedestrians as intended and equal users of the transportation system should send a clear signal to state and local transportation officials that the roads are to be designed and constructed for all users—the key principle of complete streets. In addition, the policy statement and the upcoming model legislation for States should help clarify the misperception by some that the responsibility and liability for maintaining the roads for all users isn't limited to when bike lanes have been installed.

Having data on the use of the various modes of sustainable transportation and its benefits will be helpful both in educating the public about the benefits of these modes and will give us the tools to set performance measures and targets and track progress.

#### Public Transit

The bill establishes several Government policies of importance to transit:

- to significantly increase the number of individuals using public transit

- to increase the mobility and ability of all citizens to move quickly and at a reasonable cost
- To reduce transportation-related fuel and energy consumption and reliance on foreign oil.

According to an analysis by Transportation Weekly, the bill represents an increase in transit's share of the total guaranteed spending pie—from 18.3% now to 22.2%. However, at Thursday's press conference, Oberstar and DeFazio emphasized that the highway/transit split would not be knowable because the bill (under the new Metropolitan mobility and Access program) would give MPOs greater control over the funding assigned them and greater flexibility to shift funds back and forth between highways and transit.

The bill places additional emphasis on transit and intercity rail by giving substantial responsibility for integrating modal investments to a new Office of Intermodalism. The separate silos between different forms of transportation at the national, state, and local level are a major impediment to creating a truly integrated network.

Under the urban area formula grants for public transit, a percentage of the funds can be spent on operating expenses—5% to 20%, depending on the population of the metro area, with the smallest areas being allowed to use the largest percentage.

The proposal contains two key reforms in the New Starts transit program that assists communities in establishing new light rail or other transit systems. It streamlines the program application and approval process, in an effort to reduce the current 10-year process from moving through planning and design phases. Most importantly, it equalizes the treatment of proposed transit projects and elevates the importance of the benefits that will occur in the community once the project is built.

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The Bus and Bus Facilities program will be eliminated and part of the money turned into a formula program with another part consolidated into a new "Intermodal and Energy Efficient Transit Facilities" program. This program allows states and local governmental authorities to compete for discretionary funding for projects to help public transit agencies realize cost savings by reducing their energy consumption; and provides funding for construction of intermodal passenger transit facilities.

#### Lee County Implications

Lee County's transit system is small, both in terms of funding and ridership. It consists primarily of limited bus routes that serve primarily the "transportation disadvantaged" groups. The county could benefit from the two new discretionary grant programs. The mandate of the Office of Livability with its focus on a closer link between work and

home could present new opportunities for the county to expand and redefine our transit system as a way of reducing our carbon footprint and making communities more livable. This bill may provide opportunities and challenges to the Lee County Transit Division in service provision.

Under the urbanized area formula grant, given the population of our area, up to 10% of the funds in this program can be spent on operating expenses, which should provide some relief for LeeTran.

The reforms in the New Start program could make it easier for Lee County to compete for grants to fund a new light rail project.

### **Connection to Land Use**

The requirement that states and metropolitan areas connect their transportation planning with land use planning is needed to ensure that communities across the country are more livable, more affordable for all Americans, and less reliant on carbon intensive transportation options.

The proposal focuses the efforts for connecting transportation and land use policies on the largest metropolitan areas--MPO areas with populations of over 1 million. However, the bill allows MPOs of more than 500,000 to participate if they wish to receive these funds. For these jurisdictions, their planning process is required to assess:

- the land use patterns that support improved mobility and reduced dependency on single-occupant vehicle trips;
- an adequate supply of housing for all income levels;
- limited impacts on valuable farmland, natural resources, and air quality;
- a reduction in greenhouse gas emissions;
- an increase in water and energy conservation and efficiency; and
- an increase in livable communities.

### **Implications for Lee County**

The new focus on connecting transportation and land use provides support for the Lee County Smart Growth efforts and is consistent with recommendations by other community groups in the county. According to MPO staff, when the 2010 Census is completed, Lee and Collier counties will be combined in terms of our metropolitan area which will make the MPO eligible for these funds, allowing these integrated planning processes applied to our county. If the MPO were to be covered by these new planning requirements, the county could benefit in two ways: 1) receiving additional funding and 2) ensuring a more sustainable, less carbon intensive transportation pattern.

### **Safety**

The Oberstar bill places greater emphasis on safety, both by doubling the investments in those activities and by establishing national and state performance targets for reducing

fatalities and injuries on our roads. State-specific targets will be incorporated in the law wherein each State must meet certain benchmarks related to its current fatality and injury levels. The current Bicycle and Pedestrian Safety program is consolidated within the Highway Safety Improvement program to finance technical assistance activities related to highway safety.

The bill requires states to establish quantifiable performance targets to address specific types of safety issues and users, including specific targets to reduce the number of pedestrian fatalities, the number of serious injuries sustained by pedestrians, the number of bicycle fatalities, and the number of serious injuries sustained by cyclists. Each state is required to develop a strategy highway safety plan which must include safety problem identification and countermeasure analysis. It specifically required that the plan identify hazardous locations that constitute a danger for bicyclists, pedestrians, the disabled, as well as motorists and motorcyclists. The state plan must adopt strategic goals and performance targets to address these safety issues, including behavioral and infrastructure problems and must focus resources on areas of greatest need or priority.

The definition of a highway safety improvement project explicitly includes ‘an improvement for pedestrian or bicyclists safety or safety of the disabled.’”

#### Implications for Lee County

Currently, bicyclists and pedestrians account nationally for 13 percent of the fatalities on our roadways, but less than one percent of safety funding is spent on improvements to make roads safer for bicyclists and pedestrians. In the past, Lee County has received little if any safety improvement funding focused on bike and pedestrian safety.

A data-driven safety program will drive funding towards the most serious of safety issues. Florida ranked #1 in the nation for both bicycle and pedestrian fatalities per capita in 2007. Lee County ranked in the top third of all Florida counties by both measures. Given our high bike and pedestrian fatality and injury rates, performance targets with consequences should bring needed focus on improving these statistics through actions that will address the problems.

In addition, research shows that well-designed sidewalks, bike lanes, intersections, and other street features to accommodate all modes of travel can significantly reduce injuries, deaths, and automobile crashes. Implementing a complete streets policy, as proposed by the Smart Growth Committee, is one of the actions that the county can take to improve our performance.

#### Environment/Greenhouse Gases

The transportation system imposes significant costs on the environment, with approximately 28 percent of greenhouse gas emissions attributable to the transportation section. Private vehicles are the largest contributor to household carbon footprints—accounting for 55% of carbon emissions from U.S. households.



The 2001 National Household Transportation Survey reveals that 50% of all trips in metropolitan areas are three miles or less and 28% are one mile or less—distances easily traversed by foot or bicycle. Yet 65 percent of trips under one mile are now made by car, in part because incomplete streets make it dangerous or unpleasant to walk, bicycle, or take public transportation. These short car trips are the ones that are the most polluting and energy intensive as well as the easiest to shift to bicycling and walking.

The proposal links transportation planning with greenhouse gas emissions reductions. EPA will establish the national reduction goals (in consultation with DOT), and DOT will require States and MPOs to develop transportation-related greenhouse gas emission reduction targets and incorporate strategies to meet these targets.

#### Implications for Lee County

The transportation-related carbon emissions contribute 46% of the greenhouse gas emissions in Florida, with 66% of these emissions coming from cars. The Fort Myers/Cape Coral metro area's carbon footprint is among the highest of the 100 metro areas in the U.S.—only 5 metro areas in the nation have worse per capita carbon emissions caused by autos.

At the same time, only 3.8% of Lee County residents use alternative means of transportation to commute to work, compared to the 9.4% national average. Of that number public transit to commute to work is only used by 1.2% of Lee County residents compared to 4.9% nationally.

The Lee MPO will be required, as part of its planning process, to develop emission reduction targets and strategies designed to meet national goals, and performance against those targets will be tracked and have consequences. Reducing driving is a relatively quick and simple means to reduce emissions, thus the county might focus on increasing its share and support options for people who walk, bike and take public transit.

The comprehensive energy strategy that Lee County is developing as part of the Energy Efficiency and Conservation Block Grant program needs to develop an aggressive strategy to lower these high car emission rates, in anticipation of this national emission reduction target.

#### Consolidation of Programs

The bill is a significant consolidation of highway programs. It condenses all the existing formula programs down to just four, and consolidates or terminates more than 75 programs. The transformation from an amalgamation of prescriptive programs to a performance-based framework is intended to change the transportation program from a cash transfer to states, to a tool for pursuing a cohesive national transportation policy.

The four core formula categories are:

- Critical Asset Investment (to bring highways & bridges to good state of repair)
- Highway Safety Improvement
- Surface Transportation
- Congestion Mitigation and Air Quality Improvement

Each of these core categories will have specific national performance objectives, and states and MPOs will be given the flexibility to identify the best approach to achieve the specific national performance objectives.

This major program restructuring could imply a major restructuring of the USDOT, which could eventually lead to an organizational restructuring at the State level.

### **More Local Control of State Transportation Program funds (STP)**

The Oberstar proposal maintains the STP program basically in its current form, retaining the formula for apportioning the funds among the States and maintaining the types of projects the funds can be spent on. This includes maintaining the Transportation Enhancement (TE) 10% reserve. These are the funds used primarily for bicycle and pedestrian projects. However, there are important reforms that increase the ability of metropolitan and local governments to access these funds.

Currently, the States rather than the localities control the use of all set-aside TE funding. The bill changes the distribution of TE funds from this “off-the-top” 10 percent set-aside controlled by the state, to a requirement that states distribute TE funds through the state based on population, and 10 percent of such funds in each area must be spent on TEs.

### **Implications for Lee County**

This new approach will likely benefit Lee County, since we have never received our “fair share” (relative to our share of the population) of these TE dollars going to FDOT District 1. Lee County has over \$50 million worth of bike/ped projects identified that could be considered for TE funding. Having these decisions made at the local level is a major improvement, both in terms of funds available and the grant selection process.

### **MPO Reforms**

One of the major themes of the bill is to provide significant new authority to local MPOs under the new Metropolitan Mobility and Access Program, which is discussed in the section below. The bill also expands the percentage of Surface Transportation Program funding that is allocated directly to MPOs based on population—from the current level of 62.5% to 80%, and in addition, the 10% Transportation Enhancement (bike/pedestrian projects) comes directly to the MPO.

The bill also reforms the MPO process in a variety of ways. It expands the scope of the MPO planning process and expands its policy goals to include decreased reliance on foreign oil, environmental impacts, greenhouse gas emissions, and livability and sustainability.

The MPO must establish a performance management system which includes qualitative and quantitative performance measures on the following items:

- Congestion reduction
- Mobility & safety improvements
- Increases in the state of good repair of surface transportation assets
- Decreases surface transportation-related emissions and energy consumption
- Consistency with land use plans
- Increases in connectivity of and access to the surface transportation system

A national MPO database is established within 6 months of enactment, with the local MPOs providing the information. For the first time, there will be a national database with all the performance measures, targets, and outcomes.

The MPO must establish performance targets within 18 months of enactment of the bill, and is required to report annually to the Secretary and to publish a progress report. It is also required to include greenhouse gas emission reduction targets and strategies in its planning process, based on the national transportation-related emission reduction goals. These targets are required to include efforts to increase public transportation ridership and walking and bicycling.

There is a new requirement that DOT certify MPO compliance with the law every four years. Failure to pass certification means the withholding of federal funds.

#### Implications for Lee County

Having the Lee County MPO develop and track performance measures and targets on these key goals will provide valuable tools in making sure the projects and policies in the county are aimed at solving the problems identified as national goals, and providing accountability to the public.

#### **Metropolitan Mobility and Access Program**

A new grant program is established that provides multi-modal transportation and financing authority directly to MPOs. This program provides broad multi-modal flexibility in planning and implementing programs of surface transportation projects to reduce vehicular congestion, to maximize mobility and access of people and goods, and to improve safety, environmental sustainability, and livability in large urbanized areas. According to statements by the Chairman, this new program would get at least \$50 billion funding and give MPOs unprecedented authority to shift funding from highways to transit (or vice versa) in order to meet specific local mobility needs. The

subcommittee Chair predicted that most of these transfers would be from highways to transit, not the other way around.

#### Implications for Lee County

To be eligible, an entity must be an MPO “that serves a metropolitan planning area that encompasses, in whole or in part, an urbanized area with a population of more than 500,000 individuals. As noted earlier, when the 2010 Census is completed, Lee County should qualify for Tier 2 of this new grant program. If the Lee MPO were to apply and be awarded one of these grants, the county could see an increase in funds available to meet local mobility needs and it would also gain new authority to transfer its highway funds into transit projects.

#### **Coordinated Access & Mobility Program**

As the blueprint points out, “the ability to access personal or public transportation is fundamental for people to connect with employment opportunities, health and medical services, educational services, and the community at large.” They cite the growing number of “transportation disadvantaged” persons: According to the 2000 U.S. Census:

- 35.1 million people were over age 65
- 44.5 million people were over age 21 and disabled; and
- And 33.9 million people were living below the poverty line.

Many of these people face significant problems in accessing transportation. About one-third of Americans don’t drive.

The bill consolidates the three separate programs into one, maintaining the constituent focus but providing great flexibility and accountability through performance measures.

#### Implications for Lee County

In Lee County, 22% of our population is 65 or over—higher than the national and FL (17%) averages. This means that 131,105 Lee County residents are over 65, and an estimated 28,000 of these residents don’t drive. With few alternatives, the end of driving for an elderly person often means the loss of their independence and a diminished quality of life. With the severe economic recession in Southwest Florida, more residents are living below the poverty line, making the purchase and maintenance of a car out of reach. Having performance measures that address the needs of the “transportationally disadvantaged” in our community should provide a tool for better serving these users.

#### **The Administration’s Approach**

On June 17<sup>th</sup>, DOT Secretary LaHood proposed an 18-month extension of the current transportation authorization bill. Beyond simply extending the current bill, he indicated he wants to include some reforms in the extension—including a focus on metro areas, extensive cost-benefit analysis, and a commitment to “livable communities”, which includes the concept of more closely linking home and work.

The extension bill is tied to the need for Congress to pass legislation providing \$5-7 billion for the Highway Trust Fund before July 31 in order to prevent a lapse in payments to the states during the August recess. The details of the Administration's extension proposal should be released shortly.

The livable communities component of the extension bill could include new directions on complete streets, transit, greenhouse gas emission reductions, and the connection between land use planning and transportation.

On June 16<sup>th</sup>, the Administration unveiled a three-Department Partnership for Sustainable Communities, bringing together DOT, HUD, and EPA, to "think differently about transportation and propose bold, new approaches to improve the livability of our nation's communities." They announced six Livability Principles that will be used by the 3 Departments in formulating and implementing policies and programs:

1. providing more transportation choices;
2. expanding access to affordable housing, particularly housing located close to transit;
3. enhancing economic competitiveness—giving people access to jobs, education and services as well as giving businesses access to markets;
4. targeting federal funds toward existing communities to spur revitalization and protect rural landscapes;
5. increasing collaboration among federal, state, and local governments to better target investments and improve accountability;
6. valuing the unique qualities of all communities—whether urban, suburban, or rural.

#### Implications for Lee County

These principles reflect significant changes in the way USDOT has operated. The Lee County Smart Growth Committee's recommended Complete Streets Resolution is consistent with these principles, especially in terms of providing more transportation choices and a better understanding of the important connection to land use planning. The Oberstar bill coupled with the Administration's current direction, will cause Lee County to rethink its land use and transportation policies. Ultimately, this bill supports the county leadership in making the hard choices necessary to create more livable communities.